

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

SCCT-01 SAM-01 ACDA-07 IO-13 OMB-01 /082 W

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FM USMISSION USBERLIN

TO AMEMBASSY BONN IMMEDIATE

INFO SECSTATE WASHDC 2977

AMEMBASSY BERLIN UNN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

RUFNPS PARIS 8530

USMISSION NATO

C O N F I D E N T I A L USBERLIN 1750

E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GW, FR, UK, US

SUBJECT: FRENCH DIFFICULTIES WITH ADOPTION OF NEW FRG ANTI-TERRORISM
LAW IN BERLIN

REFS: A) BONN 14018; B) USBERLIN 1737

1. WE APPRECIATE YOUR ASSISTANCE. PROVIDED BELOW IS OUR
DRAFT OF WHAT BK/L OUTLINED PARA 5 REF B MIGHT LOOKLIKE.
BEGIN TEXT: 1. THE ALLIED KOMMANDATURA HAS TODAY ISSUED
BK/O(76) BLANK IN WHICH IT STATED THAT IT HAD NO OBJECTION
TO THE ADOPTION IN BERLIN OF THE ABOVE-NAMED LAW AND THAT
THE LAW SHALL NOT AFFECT ALLIED RIGHTS AND RESPONSIBILITIES,
ESPECIALLY WITH REGARD TO MATTERS OF SECURITY AND STATUS
AND THEIR RIGHT TO DETERMINE, IF NECESSARY, IN A PARTICULAR
CASE THE APPROPRIATE AUTHORITY FOR THE CONDUCT OF A
PROSECUTION.

2. THE ALLIED KOMMANDATURA RECALLS THE TERMS OF
BK/L(69)13 AND CONFIRMS THAT THE EXERCISE BY THE FEDERAL
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PROSECUTOR OF HIS FUNCTIONS IN ACCORDANCE WITH THE PRO-

VISIONS OF THIS OR OTHER LAWS IS SUBJECT TO THE PROVISIONS OF BK/O(51)63 AND IS BASED UPON THE ADOPTION OF THESE LAWS BY THE BERLIN LEGISLATURE.

3. IN ORDER TO CARRY OUT CONSULTATIONS OR TAKE SUCH ACTIONS A MIGHT BE REQUIRED IN A TIMELY FASHION, THE ALLIE KOMMANDATURA REQUESTS THE SENAT TO INFORM IT BEFORE ANY CRIMINAL PROCEEDINGS ARE INSTITUTED IN BERLIN IN ACCORDANCE WITH THE PROVISIONS OF THIS LAW BY OR ON BEHALF OF THE FEDERAL PROSECUTOR. SUCH INFORMATION SHOULD NORMALLY BE PROVIDED BY THE SENAT AT THE SAME TIME AS THE FIRST INFORMATION ABOUT A CASE IS GIVEN TO THE FEDERAL PROSECUTOR OR AS SOON AS THE SENAT LEARNS THAT THE FEDERAL PROSECUTOR IS CONSIDERING THE POSSIBILITY OF PARTIVIPATING IN THE PROCEEDINGS IN BERLIN. END TEXT.

2. THIS LANGUAGE IS AN AMALGAM OF THAT APPEARING IN BRITISH DRAFT BK/O (PARA 5 REF B), BK/L(69)13, AND LEG/L (76)6 WHICH WAS ISSUED LAST MONTH ON ACTIVITIES OF FEDERAL PROSECUTOR AGAINST PERSONS INVOLVED IN ESPIONAGE ACTIVITIES. SINCE LEG/L(76)6 ALREADY COVERS MOST SENSITIVE TYPE OF ESPIONAGE CASES AND WE PROBABLY DO NOT WISH TO HAVE SUBMITTED TO US LARGE NUMBER OF ROUTINE CRIMINAL CASES WHICH ARE SENT TO KARLSRUHE AND RETURNED TO BERLIN WITHOUT FEDERAL AUTHORITIES TAKING THEM OVER, WE HAVE DRAFTED BK/L RESTRICTIVELY INTERMS OF CASES ARISING UNDER NEW ANTI-TERRORISM LEGISLATION. SLIGHTLY SOFTER VERSION WHICH WOULD NOT BE SUBSTANTIVELY DIFFERNT BUT WHICH MIGHT BE SOMEWHAT LESS ATTRACTIVE TO FRENCH COULD BE PRODUCED BY DELETING FIRS CLAUSE OF PARA 3 AND BEGINNING THAT PARA WITH WORDS, "THE ALLIED KOMMANDATURA REQUESTS". GEORGE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, TEXT, AGREEMENTS, POLICIES, TERRORISTS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USBERL01750
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760321-0932
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760827/aaaaaxoo.tel
Line Count: 92
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 BONN 14018, 76 USBERLIN 1737
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 21 APR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 APR 2004 by BoyleJA>; APPROVED <23 AUG 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FRENCH DIFFICULTIES WITH ADOPTION OF NEW FRG ANTI-TERRORISM LAW IN BERLIN
TAGS: PGOV, PFOR, WB, GE, FR, UK, US
To: BONN
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006